

1 HB392
2 128780-4
3 By Representative Barton
4 RFD: Ways and Means General Fund
5 First Read: 31-MAR-11

1 privately operated hospital for the state fiscal year in the
2 amount of ~~4.94~~ 5.14 percent of net patient revenue in fiscal
3 year 2009. If during fiscal year 2012 or 2013 there is an
4 extraordinary change in a private hospital's cost due to an
5 extraordinary known and measurable change that increases the
6 hospital's upper payment limit and entitles that hospital to
7 receive additional access payments, the assessment rate for
8 all private hospitals shall be changed to reflect the
9 hospital's additional costs. An extraordinary known and
10 measurable event is one that results in at least a 50 percent
11 increase in capital costs, necessitates the calculation of the
12 hospital's upper payment limit using a total cost to total
13 charge ratio, and the hospital has at least a 15 percent
14 annual Medicaid inpatient utilization rate. The private
15 hospital must certify to the department the extraordinary
16 costs by August 31, 2012, for the assessment to increase in
17 2013. The assessment is a cost of doing business as a
18 privately operated hospital in the State of Alabama.

19 " (b) (1) For state fiscal years 2010 and 2011, net
20 patient revenue shall be determined using the data from each
21 hospital's fiscal year ending in 2007 Medicare Cost Report
22 contained in the Centers for Medicare and Medicaid Services'
23 Healthcare Cost Report Information System file dated December
24 31, 2008. For state fiscal years 2012 and 2013, net patient
25 revenue shall be determined using the data from each
26 hospital's fiscal year ending 2009 Medicare Cost Report
27 contained in the Centers for Medicare and Medicaid Services

1 Healthcare Cost Report Information System dated December 31,
2 2010.

3 "(2) If a privately operated hospital's fiscal year
4 ending in 2007 Medicare Cost Report is not contained in the
5 Centers for Medicare and Medicaid Services' Healthcare Cost
6 Report Information System file dated December 31, 2008, the
7 hospital shall submit a copy of the hospital's 2007 Medicare
8 Cost Report to the department in order to allow the department
9 to determine the hospital's net patient revenue for 2010 and
10 2011. For fiscal years 2012 and 2013, the Medicare Cost Report
11 for 2009 shall be used. If the Medicare Cost Report is not
12 available in Centers for Medicare and Medicaid Services
13 Healthcare Cost Report Information System, the hospital shall
14 submit a copy to the department to determine the hospital's
15 net patient revenue for fiscal years 2012 and 2013.

16 "(3) If a privately operated hospital commenced
17 operations after the due date for a 2007 Medicare Cost Report,
18 the hospital shall submit its most recent Medicare Cost Report
19 to the department in order to allow the department to
20 determine the hospital's net patient revenue. If a privately
21 operated hospital commenced operations after the due date for
22 a 2009 Medicare Cost Report, the hospital shall submit its
23 most recent Medicare Cost Report to the department in order to
24 allow the department to determine the hospital's net patient
25 revenue.

26 "(c) This article does not authorize a unit of
27 county or local government to license for revenue or impose a

1 tax or assessment upon hospitals or a tax or assessment
2 measured by the income or earnings of a hospital.

3 "§40-26B-73.

4 "(a) (1) There is created within the Health Care
5 Trust Fund referenced in Article 3, Chapter 6, Title 22, a
6 designated account known as the Hospital Assessment Account.

7 "(2) The hospital assessments imposed under this
8 article shall be deposited into the Hospital Assessment
9 Account.

10 "(b) Moneys in the Hospital Assessment Account shall
11 consist of:

12 "(1) All moneys collected or received by the
13 department from privately operated hospital assessments
14 imposed under this article;

15 "(2) Any interest or penalties levied in conjunction
16 with the administration of this article; and

17 "(3) Any appropriations, transfers, donations,
18 gifts, or moneys from other sources, as applicable.

19 "(c) The Hospital Assessment Account shall be
20 separate and distinct from the State General Fund and shall be
21 supplementary to the Health Care Trust Fund.

22 "(d) Moneys in the Hospital Assessment Account shall
23 not be used to replace other general revenues appropriated and
24 funded by the Legislature or other revenues used to support
25 Medicaid.

26 "(e) The Hospital Assessment Account shall be exempt
27 from budgetary cuts, reductions, or eliminations caused by a

1 deficiency of State General Fund revenues to the extent
2 permissible under Amendment 26 to the Constitution of Alabama
3 of 1901, now appearing as Section 213 of the Official
4 Recompilation of the Constitution of Alabama of 1901, as
5 amended.

6 "(f) (1) Except as necessary to reimburse any funds
7 borrowed to supplement funds in the Hospital Assessment
8 Account, the moneys in the Hospital Assessment Account shall
9 be used only as follows:

10 "a. To make inpatient and outpatient private
11 hospital access payments under this article; or

12 "b. To reimburse moneys collected by the department
13 from hospitals through error or mistake or under this article.

14 "(2)a. The Hospital Assessment Account shall retain
15 account balances remaining each fiscal year.

16 "b. On September 30, ~~2011~~ 2013, any positive balance
17 remaining in the Hospital Assessment Account which was not
18 used by Alabama Medicaid to obtain federal matching funds
19 shall be factored into the calculation of ~~the~~ any new
20 assessment rate by reducing the amount of hospital assessment
21 funds that must be generated during the fiscal year beginning
22 on October 1, ~~2011~~ 2013, and if there is no new assessment
23 beginning October 1, 2013, the funds remaining shall be
24 refunded to the hospital that paid the assessment in
25 proportion to the amount remaining.

1 "(3) A privately operated hospital shall not be
2 guaranteed that its inpatient and outpatient hospital payments
3 will equal or exceed the amount of its hospital assessment.

4 "§40-26B-75.

5 "(a) (1) The annual assessment imposed under this
6 article shall be due and payable on a quarterly basis ~~on~~
7 during the first ~~day~~ 10 business days of each quarter.

8 "(2) Notwithstanding subdivision (1), the initial
9 installment payment of an assessment imposed by this article
10 shall not be due and payable until:

11 "a. The department issues the written notice
12 required by this article stating that the payment
13 methodologies to privately operated hospitals required under
14 this article have been approved by the Centers for Medicare
15 and Medicaid Services and the waiver under 42 C.F.R. §433.68
16 for the assessment imposed by this article, if necessary, has
17 been granted by the Centers for Medicare and Medicaid
18 Services; and

19 "b. The 30-day verification period required by this
20 article has expired; and

21 "c. Medicaid has made all disproportionate share
22 payments for the fiscal year consistent with the effective
23 date of the approved state plan amendment and waiver.

24 "(3) After the initial installment has been paid
25 under this section, each subsequent quarterly installment
26 payment of an assessment imposed by this article shall be due

1 and payable ~~on~~ during the first ~~day~~ 10 business days of the
2 quarter.

3 "(b) The payment by a privately operated hospital of
4 the assessment created in this article shall be reported as an
5 allowable cost for Medicaid reimbursement purposes.

6 "(c) (1) If a privately operated hospital fails to
7 ~~timely~~ pay the full amount of a quarterly assessment by the
8 tenth legislative business day of the quarter, the department
9 shall add to the assessment:

10 "a. A penalty assessment equal to five percent of
11 the quarterly amount not paid on or before the due date; and

12 "b. On the last day of each quarter after the due
13 date until the assessed amount and the penalty imposed under
14 this section are paid in full, an additional five percent
15 penalty assessment on any unpaid quarterly and unpaid penalty
16 assessment amounts.

17 "(2) Payments shall be credited first to unpaid
18 quarterly amounts, rather than to penalty or interest amounts,
19 beginning with the most delinquent installment.

20 "§40-26B-76.

21 "(a) (1) The department shall send a notice of
22 assessment to each privately operated hospital informing the
23 hospital of the assessment rate, the hospital's net patient
24 revenue calculation, and the estimated assessment amount owed
25 by the hospital for the applicable fiscal year.

26 "(2) Except as set forth in subdivision (3), annual
27 notices of assessment shall be sent at least 30 days before

1 the due date for the first quarterly assessment payment of
2 each fiscal year.

3 "(3) The first notice of assessment shall be sent
4 within 30 days after receipt by the department of notification
5 from the Centers for Medicare and Medicaid Services that the
6 payments required under this article and, if necessary, the
7 waiver granted under 42 C.F.R. §433.68, have been approved.

8 "(b) (1) The privately operated hospital shall have
9 30 days from the date of its receipt of a notice of assessment
10 to review and verify the assessment rate, the hospital's net
11 patient revenue calculation, and the estimated assessment
12 amount.

13 "(2) If a privately operated hospital disputes the
14 hospital's net patient revenue calculation and the estimated
15 assessment amount, the hospital shall notify the department of
16 the disputed amounts within 10 business days of notification
17 of the assessment by the department. The hospital and the
18 department shall attempt to resolve the dispute on an informal
19 basis initially. If the hospital and department cannot
20 informally resolve the dispute, the dispute resolution process
21 described in Chapter 2A of this title, the Alabama Taxpayer's
22 Bill of Rights and Uniform Revenue Procedures Act and any
23 subsequent amendatory acts shall be followed to resolve the
24 dispute.

25 "(c) (1) If a hospital provider operates, conducts,
26 or maintains more than one privately operated hospital in the

1 state, the hospital provider shall pay the assessment for each
2 hospital separately.

3 "(2) However, if the hospital provider operates more
4 than one privately operated hospital under one Medicaid
5 provider number, the hospital provider may pay the assessment
6 for the hospitals in the aggregate.

7 "(d) (1) For a privately operated hospital subject to
8 the assessment imposed under this article that ceases to
9 conduct hospital operations or maintain its state license or
10 did not conduct hospital operations throughout a state fiscal
11 year, the assessment for the state fiscal year in which the
12 cessation occurs shall be adjusted by multiplying the annual
13 assessment computed under this article by a fraction, the
14 numerator of which is the number of days during the year that
15 the hospital operated and the denominator of which is 365.

16 "(2)a. Immediately prior to ceasing operations, the
17 hospital shall pay the adjusted assessment for that state
18 fiscal year to the extent not previously paid.

19 "b. The hospital also shall receive payments from
20 Medicaid under this article, which shall be adjusted by the
21 same fraction as its annual assessment.

22 "(e) A privately operated hospital subject to an
23 assessment under this article that has not been previously
24 licensed as a hospital in Alabama and that commences hospital
25 operations during a state fiscal year shall pay the required
26 assessment computed under this article and shall be eligible
27 for hospital access payments under this article on the date

1 specified in rules promulgated by Medicaid under the Alabama
2 Administrative Procedure Act.

3 "(f) A hospital that is exempt from payment of the
4 assessment under this article at the beginning of a state
5 fiscal year, but during the state fiscal year experiences a
6 change in status so that it becomes subject to the assessment
7 shall pay the required assessment computed under this article
8 and shall be eligible for hospital access payments under this
9 article on the date specified in rules promulgated by Medicaid
10 under the Alabama Administrative Procedure Act.

11 "(g) A privately operated hospital that is subject
12 to payment of the assessment computed under this article at
13 the beginning of a state fiscal year, but during the state
14 fiscal year experiences a change in status so that it becomes
15 exempted from payment under this article shall be relieved of
16 its obligation to pay the hospital assessment on the date
17 specified in rules promulgated by Medicaid under the Alabama
18 Administrative Procedure Act.

19 "§40-26B-77.

20 "(a) A certification of public expenditures shall be
21 completed and provided to Medicaid by each publicly and
22 state-owned hospital for each state fiscal year beginning with
23 fiscal year 2007. This written certification shall include the
24 sum of the cost of providing care to Medicaid eligible
25 beneficiaries for both inpatient and outpatient care plus the
26 amount of uncompensated care provided to hospital inpatients
27 and outpatients during that same state fiscal year.

1 "(b) (1) For state fiscal years 2010, ~~and 2011, 2012,~~
2 and 2013, Medicaid shall pay to each publicly or state-owned
3 hospitals the disproportionate share moneys for that fiscal
4 year during the first month of the state fiscal year.

5 "(2) Certified public expenditures made by publicly
6 and state-owned hospitals shall comply with the requirements
7 of 42 U.S.C. §1396b(w).

8 "(3) If a publicly or state-owned hospital commenced
9 operations after the due date for the state fiscal year 2007,
10 the hospital shall submit its certification upon completion of
11 the first six months of operation of the hospital to Medicaid
12 in order to allow Medicaid to add the certification amount to
13 the total certified public expenditure amount. If a publicly
14 or state-owned hospital commenced operations after the due
15 date for the state fiscal year 2009, the hospital shall submit
16 its certification upon completion of the first six months of
17 operation of the hospital to Medicaid in order to allow
18 Medicaid to add the certification amount to the total
19 certified public expenditure amount.

20 "(4) If a hospital ceases to operate as a
21 state-owned or public hospital it shall provide a
22 certification to Medicaid which shall include all dates of
23 inpatient and outpatient services until and including the
24 hospital's last day of patient service as a publicly or
25 state-owned hospital within 10 business days of the last day
26 the hospital operated as a state-owned or public hospital.

27 "§40-26B-79.

1 "(a) Medicaid shall pay hospitals as a base amount
2 for state fiscal years 2010, ~~and 2011, 2012, and 2013,~~ the
3 total inpatient payments made by Medicaid during state fiscal
4 year 2007, divided by the total patient days paid in state
5 fiscal year 2007, multiplied by patient days paid during
6 fiscal years 2010, ~~and 2011, 2012, and 2013.~~ This payment to
7 be paid using Medicaid's published check write table is in
8 addition to any access payments, disproportionate share
9 payments, or other payments described in this article.

10 "(b) Any publicly owned or privately operated
11 hospital that ceases to operate as a hospital that was in
12 operation during the hospital's fiscal year ending in 2007
13 shall notify Medicaid at the time the facility ceases to
14 operate. Base payments that would have been made to these
15 facilities for these services will not be made beginning on
16 the date that the facility ceased to operate as a hospital ~~and~~
17 ~~will be held in the Hospital Assessment Account.~~

18 "~~(c) Any publicly owned or privately operated~~
19 ~~hospital that ceases to operate an obstetrical or psychiatric~~
20 ~~unit after September 30, 2009, that was in operation during~~
21 ~~the hospital's fiscal year ending in 2007 shall notify~~
22 ~~Medicaid at the time the facility ceases to operate an~~
23 ~~obstetrical or psychiatric unit. Base payments that would have~~
24 ~~been made to these facilities for these services will not be~~
25 ~~made beginning on the date after September 30, 2009, that the~~
26 ~~facility ceased to operate an obstetrical or psychiatric unit~~
27 ~~and will be held in the Hospital Assessment Account.~~

1 ~~"(d) Funds held in the Hospital Assessment Account~~
2 ~~due to base payments withheld from hospitals shall be paid at~~
3 ~~the end of the state fiscal year as follows:~~

4 ~~"(1) Any hospital, in the same geographic market~~
5 ~~area of a hospital that ceases to operate, that has~~
6 ~~experienced increased utilization from 2007 shall receive a~~
7 ~~proportionate increase in base payments financed by withheld~~
8 ~~base payments due to hospitals that ceased to operate.~~

9 ~~"(2) Any hospital, in the same geographic market~~
10 ~~area of a hospital that closed an obstetrical unit, that~~
11 ~~experiences increased obstetrical utilization after September~~
12 ~~30, 2009, shall receive a proportionate increase in base~~
13 ~~payments financed by withheld base payments due to hospitals~~
14 ~~that ceased to operate an obstetrical unit.~~

15 ~~"(3) Any hospital in the same geographic market area~~
16 ~~of a hospital that closed a psychiatric unit which experiences~~
17 ~~increased psychiatric utilization after September 30, 2009,~~
18 ~~shall receive a proportionate increase in base payments~~
19 ~~financed by withheld base payments due to hospitals that~~
20 ~~ceased to operate a psychiatric unit.~~

21 ~~"(4) Any funds not expended shall be paid to all~~
22 ~~hospitals proportionally to total base payments at the end of~~
23 ~~the state fiscal year.~~

24 ~~"§40-26B-80.~~

25 ~~"Medicaid shall pay hospitals as a base amount for~~
26 ~~state fiscal years 2010 and 2011 the total outpatient payments~~
27 ~~made by Medicaid during state fiscal year 2007, divided by the~~

1 total Internal Control Number or ICN count incurred in state
2 fiscal year 2007, multiplied by the Internal Control Number or
3 ICN count incurred each month during fiscal years 2010 and
4 2011. Medicaid shall pay hospitals as a base amount for fiscal
5 years 2012 and 2013 for outpatient services based upon the
6 outpatient fee schedule in existence on September 30, 2009,
7 plus an additional six percent inflation factor. Outpatient
8 base payments shall be paid using Medicaid's published check
9 write table and shall be paid in addition to any ~~assessment~~
10 access payments or other payments described in this article.

11 "§40-26B-81.

12 "(a) To preserve and improve access to hospital
13 services, for hospital inpatient and outpatient services
14 rendered on or after October 1, 2009, Medicaid shall make
15 hospital access payments to publicly, state-owned, and
16 privately operated hospitals as set forth in this section.

17 "(b) The aggregate hospital access payment amount is
18 an amount equal to the upper payment limit, less total base
19 payments determined under this article.

20 "(c) All publicly, state-owned, and privately
21 operated hospitals shall be eligible for inpatient and
22 outpatient hospital access payments for fiscal years 2010, and
23 2011, 2012, and 2013 as set forth in this article.

24 "(1) In addition to any other funds paid to
25 hospitals for inpatient hospital services to Medicaid
26 patients, each eligible hospital shall receive inpatient
27 hospital access payments each state fiscal year. Publicly and

1 state-owned hospitals shall receive payments, including base
2 payments, that, in the aggregate, equal the upper payment
3 limit for publicly and state-owned hospitals. Privately
4 operated hospitals shall receive payments, including base
5 payments that, in the aggregate, equal the upper payment limit
6 for privately operated hospitals.

7 "(2) Inpatient hospital access payments shall be
8 made on a quarterly basis.

9 "(3) In addition to any other funds paid to
10 hospitals for outpatient hospital services to Medicaid
11 patients, each eligible hospital shall receive outpatient
12 hospital access payments each state fiscal year. Publicly and
13 state-owned hospitals shall receive payments, including base
14 payments, that, in the aggregate, equal the upper payment
15 limit for publicly and state-owned hospitals. Privately
16 operated hospitals shall receive payments, including base
17 payments that, in the aggregate, equal the upper payment limit
18 for privately operated hospitals.

19 "(4) Outpatient hospital access payments shall be
20 made on a ~~monthly~~ quarterly basis.

21 "(d) A hospital access payment shall not be used to
22 offset any other payment by Medicaid for hospital inpatient or
23 outpatient services to Medicaid beneficiaries, including,
24 without limitation, any fee-for-service, per diem, private
25 hospital inpatient adjustment, or cost settlement payment.

26 "(e) The specific hospital payments for publicly,
27 state-owned, and privately operated hospitals shall be

1 described in the state plan amendment to be submitted to and
2 approved by the Centers for Medicare and Medicaid Services.

3 "§40-26B-82.

4 "(a) The assessment imposed under this article shall
5 not take effect or shall cease to be imposed and any moneys
6 remaining in the Hospital Assessment Account in the Alabama
7 Medicaid Program Trust Fund shall be refunded to hospitals in
8 proportion to the amounts paid by them if any of the following
9 occur:

10 "(1) Expenditures for hospital inpatient and
11 outpatient services paid by the Alabama Medicaid Program for
12 fiscal years 2010, ~~and 2011,~~ 2012, and 2013 are less than the
13 amount paid during fiscal year 2009.

14 "(2) Medicaid makes changes in its rules that reduce
15 hospital inpatient payment rates, outpatient payment rates, or
16 adjustment payments, including any cost settlement protocol,
17 that were in effect on ~~March 1, 2009~~ October 1, 2009.

18 "(3) The inpatient or outpatient hospital access
19 payments required under this article are changed or the
20 assessments imposed or certified public expenditures
21 recognized under this article are not eligible for federal
22 matching funds under Title XIX of the Social Security Act, 42
23 U.S.C. §1396 et seq., or 42 U.S.C. §1397aa et seq.

24 "(b) (1) The assessment imposed under this article
25 shall not take effect or shall cease to be imposed if the
26 assessment is determined to be an impermissible tax under
27 Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

1 "(2) Moneys in the Hospital Assessment Account in
2 the Alabama Medicaid Program Trust Fund derived from
3 assessments imposed before the determination described in
4 subdivision (1) shall be disbursed under this article to the
5 extent federal matching is not reduced due to the
6 impermissibility of the assessments, and any remaining moneys
7 shall be refunded to hospitals in proportion to the amounts
8 paid by them.

9 "§40-26B-84.

10 "This article shall be of no effect if federal
11 financial participation under Title XIX of the Social Security
12 Act is not available to Medicaid at the approved federal
13 medical assistance percentage, established under Section 1905
14 of the Social Security Act, for the state fiscal years 2010,
15 ~~and 2011,~~ 2012, and 2013.

16 "§40-26B-88.

17 "This article shall automatically terminate and
18 become null and void by its own terms on September 30, ~~2011~~
19 2013, unless a later bill is passed extending the article to
20 future state fiscal years."

21 Section 2. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
General Fund..... 31-MAR-11

Read for the second time and placed
on the calendar with 1 substitute
and..... 06-APR-11

Read for the third time and passed
as amended..... 26-APR-11
Yeas 95, Nays 0, Abstains 0

Motion to reconsider adopted by Voice Vote on April 26, 2011.

Read for the third time and passed
as amended..... 26-APR-11
Yeas 93, Nays 0, Abstains 1

Greg Pappas
Clerk