

1 HB605  
2 151840-3  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 10-APR-13

1  
2 ENROLLED, An Act,

3 To amend Sections 40-26B-70, 40-26B-71, 40-26B-73,  
4 40-26B-77, 40-26B-78, 40-26B-80, 40-26B-82, 40-26B-84,  
5 40-26B-88, Code of Alabama 1975, to extend the private  
6 hospital assessment and Medicaid funding program for fiscal  
7 years 2014, 2015 and 2016; to change the base year to fiscal  
8 year 2011 for purposes of calculating the assessment; to  
9 change the assessment rate for fiscal years 2014, 2015 and  
10 2016; to add Section 40-26B-77.1 to Article 5, Chapter 26B of  
11 the Code of Alabama 1975, to provide that state-owned and  
12 public hospitals shall make intergovernmental transfers to the  
13 Medicaid Agency to be used to fund payments for inpatient and  
14 outpatient care; and to provide that state-owned and public  
15 hospital certified public expenditures shall be for the  
16 hospital's uncompensated care and shall be used to pay the  
17 hospital its disproportionate share payments.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 40-26B-70, 40-26B-71, 40-26B-73,  
20 40-26B-77, 40-26B-78, 40-26B-80, 40-26B-81, 40-26B-82,  
21 40-26B-84, and 40-26B-88, Code of Alabama 1975, are amended to  
22 read as follows

23 "§40-26B-70.

24 For purposes of this article, the following terms  
25 shall have the following meanings:

1           (1) ACCESS PAYMENT. A payment by the Medicaid  
 2 program to an eligible hospital for inpatient and outpatient  
 3 hospital care provided to a Medicaid recipient.

4           (2) ALTERNATE CARE PROVIDER. A contractor, other  
 5 than a regional care organization, that agrees to provide a  
 6 comprehensive package of Medicaid benefits to Medicaid  
 7 beneficiaries in a defined region of the state pursuant to a  
 8 risk contract.

9           ~~(2)~~ (3) CERTIFIED PUBLIC EXPENDITURE. A  
 10 certification in writing of the cost of providing medical care  
 11 to Medicaid beneficiaries by publicly owned hospitals and  
 12 hospitals owned by a state agency or a state university plus  
 13 the amount of uncompensated care provided by publicly owned  
 14 hospitals and hospitals owned by an agency of state government  
 15 or a state university.

16           ~~(3)~~ (4) DEPARTMENT. The Department of Revenue of the  
 17 State of Alabama.

18           ~~(4)~~ (5) HOSPITAL. A facility that is licensed as a  
 19 hospital under the laws of the State of Alabama, provides  
 20 24-hour nursing services, and is primarily engaged in  
 21 providing, by or under the supervision of doctors of medicine  
 22 or osteopathy, inpatient services for the diagnosis,  
 23 treatment, and care or rehabilitation of persons who are sick,  
 24 injured, or disabled.

1           ~~(5)~~ (6) HOSPITAL SERVICES AND REIMBURSEMENT PANEL. A  
2 group of individuals appointed to review and approve any state  
3 plan amendments to be submitted to the Centers for Medicare  
4 and Medicaid Services which involve hospital services or  
5 reimbursement.

6           ~~(6)~~ (7) INTERGOVERNMENTAL TRANSFER. A transfer of  
7 funds made by a publicly or state-owned hospital to the  
8 Medicaid Agency, which will be used by the agency to obtain  
9 federal matching funds for all hospital payments to public and  
10 state-owned hospitals, other than disproportionate share  
11 payments.

12           ~~(6)~~~~(7)~~ (8) MEDICAID PROGRAM. The medical assistance  
13 program as established in Title XIX of the Social Security Act  
14 and as administered in the State of Alabama by the Alabama  
15 Medicaid Agency pursuant to executive order, Chapter 6 of  
16 Title 22, commencing with Section 22-6-1, and Title 560 of the  
17 Alabama Administrative Code.

18           ~~(7)~~~~(8)~~ (9) MEDICARE COST REPORT. CMS-2552-96, the  
19 Cost Report for Electronic Filing of Hospitals.

20           ~~(8)~~~~(9)~~ (10) NET PATIENT REVENUE. The amount  
21 calculated in accordance with generally accepted accounting  
22 principles for privately operated hospitals that is reported  
23 on Worksheet G-3, Column 1, Line 3, of the Medicare Cost  
24 Report, adjusted to exclude nonhospital revenue.

1           ~~(9)~~~~(10)~~ (11) PRIVATELY OPERATED HOSPITAL. A  
2 hospital in Alabama other than:

3           a. Any hospital that is owned and operated by the  
4 federal government;

5           b. Any state-owned hospital;

6           c. Any publicly owned hospital;

7           d. A hospital that limits services to patients  
8 primarily to rehabilitation services; or

9           e. A hospital granted a certificate of need as a  
10 long term acute care hospital.

11           ~~(10)~~~~(11)~~ (12) PUBLICLY OWNED HOSPITAL. A hospital  
12 created and operating under the authority of a governmental  
13 unit which has been established as a public corporation  
14 pursuant to Chapter 21 of Title 22 or Chapter 95 of Title 11,  
15 or a hospital otherwise owned and operated by a unit of local  
16 government.

17           (13) REGIONAL CARE ORGANIZATION. An organization of  
18 health care providers that contracts with the Medicaid Agency  
19 to provide a comprehensive package of Medicaid benefits to  
20 Medicaid beneficiaries in a defined region of the state and  
21 that meets the requirements set forth by the Alabama Medicaid  
22 Agency.

23           ~~(11)~~~~(12)~~~~(13)~~ (14) STATE-OWNED HOSPITAL. A hospital  
24 that is a state agency or unit of government, including,

1 without limitation, a hospital owned by a state agency or a  
 2 state university.

3 ~~(12)~~~~(13)~~ (15) STATE PLAN AMENDMENT. A change or  
 4 update to the state Medicaid plan that is approved by the  
 5 Centers for Medicare and Medicaid Services.

6 ~~(13)~~~~(14)~~ (16) UPPER PAYMENT LIMIT. The maximum  
 7 ceiling imposed by federal regulation on Medicaid  
 8 reimbursement for inpatient hospital services under 42 C.F.R.  
 9 §447.272 and outpatient hospital services under 42 C.F.R.  
 10 §447.321.

11 a. The upper payment limit shall be calculated  
 12 separately for hospital inpatient and outpatient services.

13 b. Medicaid disproportionate share payments shall be  
 14 excluded from the calculation of the upper payment limit.

15 ~~(14)~~~~(15)~~ (17) UNCOMPENSATED CARE SURVEY. A survey  
 16 of hospitals conducted by the Medicaid program to determine  
 17 the amount of uncompensated care provided by a particular  
 18 hospital in a particular fiscal year.

19 "§40-26B-71.

20 (a) ~~An assessment is imposed on each privately~~  
 21 ~~operated hospital for the state fiscal year in the amount of~~  
 22 ~~5.38 percent of each hospital's net patient revenue in fiscal~~  
 23 ~~year 2007 for the state fiscal years 2010 and 2011. For state~~  
 24 ~~fiscal years 2012 and 2013, an assessment is imposed on each~~  
 25 ~~privately operated hospital for the state fiscal year in the~~

1 amount of 5.14 percent of net patient revenue in fiscal year  
2 2009. If during fiscal year 2012 or 2013 there is an  
3 extraordinary change in a private hospital's cost due to an  
4 extraordinary known and measurable change that increases the  
5 hospital's upper payment limit and entitles that hospital to  
6 receive additional access payments, the assessment rate for  
7 all private hospitals shall be changed to reflect the  
8 hospital's additional costs. An extraordinary known and  
9 measurable event is one that results in at least a 50 percent  
10 increase in capital costs, necessitates the calculation of the  
11 hospital's upper payment limit using a total cost to total  
12 charge ratio, and the hospital has at least a 15 percent  
13 annual Medicaid inpatient utilization rate. The private  
14 hospital must certify to the department the extraordinary  
15 costs by August 31, 2012, for the assessment to increase in  
16 2013. For state fiscal years 2014, 2015 and 2016 an assessment  
17 is imposed on each privately operated hospital in the amount  
18 of 5.50 percent of net patient revenue in fiscal year 2011.  
19 The assessment is a cost of doing business as a privately  
20 operated hospital in the State of Alabama. Prior to the  
21 legislative session preceding state fiscal year 2016, the  
22 Medicaid Agency shall make a determination of whether changes  
23 in federal law or regulation have adversely affected hospital  
24 Medicaid reimbursement since the effective date of this act.  
25 If the Agency determines that adverse impact to hospital

1 Medicaid reimbursement has occurred, or will occur during  
2 fiscal year 2016, the Agency shall report its findings to the  
3 Chairman of the House Ways and Means General Fund Committee  
4 who shall propose an amendment to this act during any  
5 legislative session prior to October 1, 2015, to address the  
6 adverse impact.

7 (b) (1) ~~For state fiscal years 2010 and 2011, net~~  
8 ~~patient revenue shall be determined using the data from each~~  
9 ~~hospital's fiscal year ending in 2007 Medicare Cost Report~~  
10 ~~contained in the Centers for Medicare and Medicaid Services'~~  
11 ~~Healthcare Cost Report Information System file dated December~~  
12 ~~31, 2008. For state fiscal years 2012 and 2013, net patient~~  
13 ~~revenue shall be determined using the data from each~~  
14 ~~hospital's fiscal year ending 2009 Medicare Cost Report~~  
15 ~~contained in the Centers for Medicare and Medicaid Services'~~  
16 ~~Healthcare Cost Report Information System dated December 31,~~  
17 ~~2010. For state fiscal years 2014, 2015 and 2016, net patient~~  
18 ~~revenue shall be determined using the data from each private~~  
19 ~~hospital's fiscal year ending 2011 Medicare Cost Report~~  
20 ~~contained in the Centers for Medicare and Medicaid Services~~  
21 ~~Healthcare Cost Information System.~~

22 (2) ~~If a privately operated hospital's fiscal year~~  
23 ~~ending in 2007 Medicare Cost Report is not contained in the~~  
24 ~~Centers for Medicare and Medicaid Services' Healthcare Cost~~  
25 ~~Report Information System file dated December 31, 2008, the~~



1 ~~hospital shall submit a copy of the hospital's 2007 Medicare~~  
2 ~~Cost Report to the department in order to allow the department~~  
3 ~~to determine the hospital's net patient revenue for 2010 and~~  
4 ~~2011. For fiscal years 2012 and 2013, the Medicare Cost Report~~  
5 ~~for 2009 shall be used. The Medicare Cost Report for 2011 for~~  
6 ~~each private hospital shall be used for fiscal years 2014,~~  
7 ~~2015 and 2016.~~ If the Medicare Cost Report is not available in  
8 Centers for Medicare and Medicaid Services' Healthcare Cost  
9 Report Information System, the hospital shall submit a copy to  
10 the department to determine the hospital's net patient revenue  
11 for fiscal ~~years 2012 and 2013.~~ year 2011.

12 (3) ~~If a privately operated hospital commenced~~  
13 ~~operations after the due date for a 2007 Medicare Cost Report,~~  
14 ~~the hospital shall submit its most recent Medicare Cost Report~~  
15 ~~to the department in order to allow the department to~~  
16 ~~determine the hospital's net patient revenue. If a privately~~  
17 ~~operated hospital commenced operations after the due date for~~  
18 ~~a 2009 Medicare Cost Report, the hospital shall submit its~~  
19 ~~most recent Medicare Cost Report to the department in order to~~  
20 ~~allow the department to determine the hospital's net patient~~  
21 ~~revenue. If a privately operated hospital commenced operations~~  
22 ~~after the due date for a 2011 Medicare Cost Report, the~~  
23 ~~hospital shall submit its most recent Medicare Cost Report to~~  
24 ~~the department in order to allow the department to determine~~  
25 ~~the hospital's net patient revenue.~~

1           (c) This article does not authorize a unit of county  
2 or local government to license for revenue or impose a tax or  
3 assessment upon hospitals or a tax or assessment measured by  
4 the income or earnings of a hospital.

5           "§40-26B-73.

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

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

12           (b) Moneys in the Hospital Assessment Account shall  
13 consist of:

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

17           (2) Any interest or penalties levied in conjunction  
18 with the administration of this article; and

19           (3) Any appropriations, transfers, donations, gifts,  
20 or moneys from other sources, as applicable.

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

24           (d) Moneys in the Hospital Assessment Account shall  
25 not be used to replace other general revenues appropriated and

1 funded by the Legislature or other revenues used to support  
2 Medicaid.

3 (e) The Hospital Assessment Account shall be exempt  
4 from budgetary cuts, reductions, or eliminations caused by a  
5 deficiency of State General Fund revenues to the extent  
6 permissible under Amendment 26 to the Constitution of Alabama  
7 of 1901, now appearing as Section 213 of the Official  
8 Recompilation of the Constitution of Alabama of 1901, as  
9 amended.

10 (f) (1) Except as necessary to reimburse any funds  
11 borrowed to supplement funds in the Hospital Assessment  
12 Account, the moneys in the Hospital Assessment Account shall  
13 be used only as follows:

14 a. To make inpatient and outpatient private hospital  
15 access payments under this article; or

16 b. To reimburse moneys collected by the department  
17 from hospitals through error or mistake or under this article.

18 (2)a. The Hospital Assessment Account shall retain  
19 account balances remaining each fiscal year.

20 b. On September 30, ~~2013~~ 2014 and each year  
21 thereafter, any positive balance remaining in the Hospital  
22 Assessment Account which was not used by Alabama Medicaid to  
23 obtain federal matching funds shall be factored into the  
24 calculation of any new assessment rate by reducing the amount  
25 of hospital assessment funds that must be generated during the

1 ~~next fiscal year. beginning on October 1, 2013, and if~~ If  
2 there is no new assessment beginning October 1, ~~2013~~ 2016, the  
3 funds remaining shall be refunded to the hospital that paid  
4 the assessment in proportion to the amount remaining.

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

8 "§40-26B-77.

9 (a) A certification of public expenditures shall be  
10 completed and provided to Medicaid by each publicly and  
11 state-owned hospital for each state fiscal year beginning with  
12 fiscal year 2007. This written certification shall only  
13 include ~~the sum of the cost of providing care to Medicaid~~  
14 ~~eligible beneficiaries for both inpatient and outpatient care~~  
15 ~~plus the~~ amount of uncompensated care provided to hospital  
16 inpatients and outpatients during that same state fiscal year.

17 (b) (1) For state fiscal years ~~2010, 2011, 2012, and~~  
18 ~~2013~~ 2014, 2015 and 2016, Medicaid shall pay to each publicly  
19 or state-owned hospitals the disproportionate share moneys for  
20 that fiscal year during the first month of the state fiscal  
21 year.

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

1           (3) If a publicly or state-owned hospital commenced  
2 operations after the due date for the state fiscal year ~~2007~~  
3 2011, the hospital shall submit its certification upon  
4 completion of the first six months of operation of the  
5 hospital to Medicaid in order to allow Medicaid to add the  
6 certification amount to the total certified public expenditure  
7 amount. ~~If a publicly or state-owned hospital commenced~~  
8 ~~operations after the due date for the state fiscal year 2009,~~  
9 ~~the hospital shall submit its certification upon completion of~~  
10 ~~the first six months of operation of the hospital to Medicaid~~  
11 ~~in order to allow Medicaid to add the certification amount to~~  
12 ~~the total certified public expenditure amount.~~

13           (4) If a hospital ceases to operate as a state-owned  
14 or public hospital it shall provide a certification to  
15 Medicaid which shall include all dates of inpatient and  
16 outpatient services until and including the hospital's last  
17 day of patient service as a publicly or state-owned hospital  
18 within 10 business days of the last day the hospital operated  
19 as a state-owned or public hospital.

20           "§40-26B-78.

21           (a) Medicaid shall account for those federal funds  
22 derived from certified public expenditures by publicly and  
23 state-owned hospitals as those funds are received by Medicaid  
24 from the federal government.

1 (b) The certified public expenditure accounting  
 2 shall be separate and distinct from the State General Fund  
 3 appropriation accounting.

4 (c) Federal moneys accounted for shall not be used  
 5 to replace other State General Fund revenues appropriated and  
 6 funded by the Legislature or other revenues used to support  
 7 Medicaid.

8 (d) The moneys obtained by Medicaid from hospital  
 9 certified public expenditure certifications shall be used only  
 10 as follows:

11 (1) To make ~~inpatient, outpatient, and~~  
 12 disproportionate share hospital payments under this article;

13 (2) To reimburse moneys collected by the department  
 14 through error or mistake under this article; or

15 (3) For any other permissible purpose allowed under  
 16 Title XIX of the Social Security Act.

17 "§40-26B-79.

18 ~~(a)~~ Medicaid shall pay hospitals as a base amount  
 19 for state fiscal years ~~2010, 2011, 2012, and 2013~~ 2014, 2015  
 20 and 2016, the total inpatient payments made by Medicaid during  
 21 state fiscal year 2007, divided by the total patient days paid  
 22 in state fiscal year 2007, multiplied by patient days paid  
 23 during fiscal years ~~2010, 2011, 2012, and 2013~~ 2014, 2015 and  
 24 2016. This payment to be paid using Medicaid's published check  
 25 write table is in addition to any access payments,

1 disproportionate share payments, or other payments described  
2 in this article.

3 ~~(b) Any publicly owned or privately operated~~  
4 ~~hospital that ceases to operate as a hospital that was in~~  
5 ~~operation during the hospital's fiscal year ending in 2007~~  
6 ~~shall notify Medicaid at the time the facility ceases to~~  
7 ~~operate. Base payments that would have been made to these~~  
8 ~~facilities for these services will not be made beginning on~~  
9 ~~the date that the facility ceased to operate as a hospital.~~

10 "§40-26B-80.

11 Medicaid shall pay hospitals as a base amount for  
12 state fiscal years 2010 and 2011 the total outpatient payments  
13 made by Medicaid during state fiscal year 2007, divided by the  
14 total Internal Control Number or ICN count incurred in state  
15 fiscal year 2007, multiplied by the Internal Control Number or  
16 ICN count incurred each month during fiscal years 2010 and  
17 2011. Medicaid shall pay hospitals as a base amount for fiscal  
18 years 2012 and 2013 for outpatient services based upon the  
19 outpatient fee schedule in existence on September 30, 2009,  
20 plus an additional six percent inflation factor. Medicaid  
21 shall pay hospitals as a base amount for fiscal years 2014,  
22 2015 and 2016 for outpatient services based upon the  
23 outpatient fee schedule in existence on September 30, 2013,  
24 plus an additional six percent inflation factor over the  
25 amounts paid in 2012 and 2013. Outpatient base payments shall

1 be paid using Medicaid's published check write table and shall  
2 be paid in addition to any access payments or other payments  
3 described in this article.

4 "§40-26B-81.

5 (a) To preserve and improve access to hospital  
6 services, for hospital inpatient and outpatient services  
7 rendered on or after October 1, 2009, Medicaid shall make  
8 hospital access payments to publicly, state-owned, and  
9 privately operated hospitals as set forth in this section.

10 (b) The aggregate hospital access payment amount is  
11 an amount equal to the upper payment limit, less total base  
12 payments determined under this article.

13 (c) All publicly, state-owned, and privately  
14 operated hospitals shall be eligible for inpatient and  
15 outpatient hospital access payments for fiscal years ~~2010,~~  
16 ~~2011, 2012, and 2013~~ 2014, 2015 and 2016 as set forth in this  
17 article.

18 (1) In addition to any other funds paid to hospitals  
19 for inpatient hospital services to Medicaid patients, each  
20 eligible hospital shall receive inpatient hospital access  
21 payments each state fiscal year. Publicly and state-owned  
22 hospitals shall receive payments, including base payments,  
23 that, in the aggregate, equal the upper payment limit for  
24 publicly and state-owned hospitals. Privately operated  
25 hospitals shall receive payments, including base payments



1 that, in the aggregate, equal the upper payment limit for  
2 privately operated hospitals.

3 (2) Inpatient hospital access payments shall be made  
4 on a quarterly basis.

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

15 (4) Outpatient hospital access payments shall be  
16 made on a quarterly basis.

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

22 (e) The specific hospital payments for publicly,  
23 state-owned, and privately operated hospitals shall be  
24 described in the state plan amendment to be submitted to and  
25 approved by the Centers for Medicare and Medicaid Services.

1           "§40-26B-82.

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

8           (1) Expenditures for hospital inpatient and  
 9 outpatient services paid by the Alabama Medicaid Program for  
 10 fiscal years ~~2010, 2011, 2012, and 2013~~ 2014, 2015 and 2016  
 11 are less than the amount paid during fiscal year ~~2009~~ 2013.

12           (2) Medicaid makes changes in its rules that reduce  
 13 hospital inpatient payment rates, outpatient payment rates, or  
 14 adjustment payments, including any cost settlement protocol,  
 15 that were in effect on ~~October 1, 2009~~ September 30, 2013.

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

23           (4) The Medicaid agency contracts with an alternate  
 24 care provider in a Medicaid region under any terms other than  
 25 the following:

1           a) If a regional care organization failed to provide  
2 adequate service pursuant to its contract, or had its  
3 certification terminated, or if the Medicaid agency could not  
4 award a contract to a regional care organization under ~~the~~  
5 terms of Section 4 its quality, efficiency and cost  
6 conditions, or if no organization had been awarded a regional  
7 care organization certificate by October 1, 2016, then the  
8 Medicaid Agency shall first offer a contract, to resume  
9 interrupted service or to assume service in the region, under  
10 the conditions of Section 4 its quality, efficiency and cost  
11 conditions to any other regional care organization that  
12 Medicaid judged would meet its quality criteria.

13           (b) If by October 1, 2014, no organization had a  
14 probationary regional care organization certification in a  
15 region. However, the Medicaid Agency could extend the deadline  
16 until January 1, 2015, if it judged an organization was making  
17 reasonable progress toward getting probationary certification.  
18 If Medicaid judged that no organization in the region likely  
19 would achieve probationary certification by January 1, 2015,  
20 then the Medicaid Agency shall let any organization with  
21 probationary or full regional care organization certification  
22 apply to develop a regional care organization in the region.  
23 If at least one organization made such an application, the  
24 agency no sooner than October 1, 2015, would decide whether  
25 any organization could reasonably be expected to become a

1 fully certified regional care organization in the region and  
2 its initial region.

3 (c) If an organization lost its probationary  
4 certification before October 1, 2016, Medicaid shall offer any  
5 other organization with probationary or full regional care  
6 organization certification, which it judged could successfully  
7 provide service in the region and its initial region, the  
8 opportunity to serve Medicaid beneficiaries in both regions.

9 (d) Medicaid may contract with an alternative  
10 alternate care provider only if no regional care organization  
11 accepted a contract under the terms of (a), or no organization  
12 was granted the opportunity to develop a regional care  
13 organization in the affected region under the terms of (b), or  
14 no organization was granted the opportunity to serve Medicaid  
15 beneficiaries under the terms of (c).

16 (e) The Medicaid Agency may contract with an  
17 alternate care provider under the terms of subsection (d) only  
18 if, in the judgment of the Medicaid Agency, care of Medicaid  
19 enrollees would be better, more efficient, and less costly  
20 than under the then existing care delivery system. Medicaid  
21 may contract with more than one alternate care provider in a  
22 Medicaid region.

23 (f) (1) If the Medicaid Agency were to contract with  
24 an alternate care provider under the terms of this section,  
25 that provider would have to pay reimbursements for hospital

1 inpatient or outpatient care at rates at least equal to those  
2 most-recently paid directly by the state Medicaid Agency  
3 either through base payments or access payments.

4 (2) If more than a year had elapsed since the  
5 Medicaid Agency directly paid reimbursements to hospitals, the  
6 minimum reimbursement rates paid by the alternate care  
7 provider would have to be changed to reflect any percentage  
8 increase in the national medical consumer price index minus  
9 100 basis points. The indexing requirement of this subdivision  
10 shall cease to be effective on Oct. 1, 2016.

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

15 (2) Moneys in the Hospital Assessment Account in the  
16 Alabama Medicaid Program Trust Fund derived from assessments  
17 imposed before the determination described in subdivision (1)  
18 shall be disbursed under this article to the extent federal  
19 matching is not reduced due to the impermissibility of the  
20 assessments, and any remaining moneys shall be refunded to  
21 hospitals in proportion to the amounts paid by them.

22 "§40-26B-84.

23 This article shall be of no effect if federal  
24 financial participation under Title XIX of the Social Security  
25 Act is not available to Medicaid at the approved federal

1 medical assistance percentage, established under Section 1905  
 2 of the Social Security Act, for the state fiscal years ~~2010,~~  
 3 ~~2011, 2012, and 2013~~ 2014, 2015 and 2016.

4 Section 2. The following code is added to Article 5,  
 5 Chapter 26 of the Code of Alabama 1975, to read as follows:

6 §40-26B-77.1.

7 (a) Beginning on October 1, 2013, publicly owned and  
 8 state-owned hospitals will begin making intergovernmental  
 9 transfers to the Medicaid Agency. The amount of these  
 10 intergovernmental transfers shall be calculated by the  
 11 Medicaid Agency to equal the amount of state funds necessary  
 12 for the agency to obtain only those federal matching funds  
 13 necessary to pay state-owned and public hospitals for direct  
 14 inpatient and outpatient care and to pay state-owned and  
 15 public hospital inpatient and outpatient access payments.(b)  
 16 These intergovernmental transfers shall be made in compliance  
 17 with 42 U.S.C. §1396(b)w.(c) If a publicly or state-owned  
 18 hospital commences operations after October 1, 2013, the  
 19 hospital shall commence making intergovernmental transfers to  
 20 the Medicaid Agency in the first full month of operation of  
 21 the hospital after October 1, 2013.

22 Section 3. This act shall become effective on  
 23 October 1, 2013.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

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House of Representatives

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I hereby certify that the within Act originated in  
and was passed by the House 23-APR-13, as amended.

9

Jeff Woodard  
Clerk

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Senate

09-MAY-13

Passed

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