ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 3364

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 11, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3364 (1R).

As amended by the committee, this bill amends the "County Option Hospital Fee Program Act," P.L.2018, c.136 (C.30:4D-7r et seq.). Specifically, the bill removes the requirement that the fee implemented under the program be subject to a cap as determined by the Commissioner of Human Services, as currently provided under the law, and instead stipulates that the fee be subject to review and approval by the commissioner. The provisions of the bill do not impact the commissioner's authority to annually review and approve county option programs.

The bill also specifies that the fee is not to exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues. Current law requires that the fee is to be implemented in accordance with federal law but does not mandate that the fee not exceed the aggregate amount specified in 42 C.F.R. s.433.68(f)(3) minus one percent of total net patient revenues.

Under the bill, with the exception of the period of time during which a participating county or Medicaid Managed Care Organization is in possession of payments prior to disbursement, neither a participating county nor Medicaid Managed Care Organization is to be liable for any amount related to an approved expenditure plan determined to be impermissible by a federal agency. The Department of Human Services is to amend related managed care contracts to include this provision.

The bill provides that if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, as outlined in 42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and expenditure report are to include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in Medicaid disproportionate share hospital payments, including Charity Care payments, at the commissioner’s sole discretion and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act. The Department of Human Services is to take all appropriate action to comply with section 1923(g) of the federal Social Security Act.

Under the bill, the proposed report submitted by a participating county is to demonstrate that all good faith efforts are to be made by the county to ensure that payments to be made under its proposal will not result in any hospital in the county exceeding its hospital-specific disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

Finally, the bill provides that any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools, thereby requiring the State to reimburse the federal government for any such excess funds, is to be required to pay the State an amount equal to the amount that the hospital exceeds its hospital-specific disproportionate share limit.

COMMITTEE AMENDMENTS:

The committee amendments provide that if a participating county submits a proposed fee and expenditure report that includes plans to increase Medicaid or NJ FamilyCare payments for any hospital within its jurisdiction that exceeds the calculated value of its hospital-specific disproportionate share limit, as outlined in 42 U.S.C. s.1396r-4 and calculated by the State, the proposed fee and expenditure report are to include an attestation from the chief executive officer of any such hospital confirming that the hospital is subject to a reduction in Medicaid disproportionate share hospital payments, including Charity Care payments, at the commissioner’s sole discretion and to the extent necessary to comply with payment limits outlined in section 1923(g) of the federal Social Security Act. The Department of Human Services is to take all appropriate action to comply with section 1923(g) of the federal Social Security Act.

The amendments provide that the proposed report submitted by a participating county is to demonstrate that all good faith efforts are to be made by the county to ensure that payments to be made under its proposal will not result in any hospital in the county exceeding its hospital-specific disproportionate share limit as outlined in 42 U.S.C. s.1396r-4.

The amendments provide that any hospital that exceeds its hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4 as a result of payments received pursuant to the County Option Hospital Fee Program or pursuant to other State or federal funding mechanisms or pools, thereby requiring the State to reimburse the federal government for any such excess funds, is to be required to pay the State an amount equal to the amount that the hospital exceeds its hospital-specific disproportionate share limit.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will produce an annual net revenue gain for the State and certain county governments as a result of increasing the existing cap on the fee a participating county can impose on a hospital from 2.5 percent to five percent of a hospital's total net patient revenues under the County Option Hospital Fee Program. Increasing the cap will result in an additional $667.3 million in hospital fees collected under the program.

The OLS estimates that the $667.3 million in fee collections will generate $1.24 billion in federal Medicaid cost reimbursements, for an estimated $1.91 billion in program revenues, of which $1.17 billion will accrue to hospitals. In their role as conduits, the State and participating counties will experience annual revenue and expenditure increases. These impacts will largely offset one another, although participating counties will realize increased revenue of $60.1 million under this bill, while the State will realize $6.7 million, from fees retained to cover their administrative costs.

The OLS notes that this fiscal estimate assumes that any increase in NJ FamilyCare payments to a hospital under the bill will not exceed the hospital's hospital-specific disproportionate share limit pursuant to 42 U.S.C. s.1396r-4.