

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED HOUSE BILL 2151

Chapter 5, Laws of 2015

64th Legislature
2015 2nd Special Session

HOSPITAL SAFETY NET

EFFECTIVE DATE: 6/30/2015

Passed by the House June 24, 2015
Yeas 86 Nays 11

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate June 26, 2015
Yeas 39 Nays 5

BRAD OWEN

President of the Senate

Approved June 30, 2015 4:01 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED HOUSE BILL 2151** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

June 30, 2015

**Secretary of State
State of Washington**

SECOND ENGROSSED HOUSE BILL 2151

Passed Legislature - 2015 2nd Special Session

State of Washington 64th Legislature 2015 Regular Session

By Representatives Jenkins, Schmick, and Bergquist

Read first time 02/19/15. Referred to Committee on Appropriations.

1 AN ACT Relating to continuation of the hospital safety net
2 assessment for two additional biennia; amending RCW 74.60.005,
3 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.100, 74.60.120,
4 74.60.130, 74.60.150, 74.60.160, and 74.60.901; providing an
5 expiration date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 74.60.005 and 2013 2nd sp.s. c 17 s 1 are each
8 amended to read as follows:

9 (1) The purpose of this chapter is to provide for a safety net
10 assessment on certain Washington hospitals, which will be used solely
11 to augment funding from all other sources and thereby support
12 additional payments to hospitals for medicaid services as specified
13 in this chapter.

14 (2) The legislature finds that federal health care reform will
15 result in an expansion of medicaid enrollment in this state and an
16 increase in federal financial participation. (~~As a result, the~~
17 ~~hospital safety net assessment and hospital safety net assessment~~
18 ~~fund created in this chapter will begin phasing down over a four-year~~
19 ~~period beginning in fiscal year 2016 as federal medicaid expansion is~~
20 ~~fully implemented. The state will end its reliance on the assessment~~
21 ~~and the fund by the end of fiscal year 2019.))~~

1 (3) In adopting this chapter, it is the intent of the
2 legislature:

3 (a) To impose a hospital safety net assessment to be used solely
4 for the purposes specified in this chapter;

5 (b) To generate approximately (~~four hundred forty six million~~
6 ~~three hundred thirty eight thousand~~) nine hundred seventy-five
7 million dollars per state fiscal (~~year in fiscal years 2014 and~~
8 ~~2015, and then phasing down in equal increments to zero by the end of~~
9 ~~fiscal year 2019,~~) biennium in new state and federal funds by
10 disbursing all of that amount to pay for medicaid hospital services
11 and grants to certified public expenditure and critical access
12 hospitals, except costs of administration as specified in this
13 chapter, in the form of additional payments to hospitals and managed
14 care plans, which may not be a substitute for payments from other
15 sources, but which include quality improvement incentive payments
16 under RCW 74.09.611;

17 (c) To generate (~~one hundred ninety nine million eight hundred~~
18 ~~thousand~~) two hundred ninety-two million dollars (~~in the 2013-2015~~
19 ~~biennium, phasing down to zero by the end of the 2017-2019~~
20 ~~biennium,~~) per biennium during the 2015-2017 and 2017-2019 biennia
21 in new funds to be used in lieu of state general fund payments for
22 medicaid hospital services;

23 (d) That the total amount assessed not exceed the amount needed,
24 in combination with all other available funds, to support the
25 payments authorized by this chapter; (~~and~~)

26 (e) To condition the assessment on receiving federal approval for
27 receipt of additional federal financial participation and on
28 continuation of other funding sufficient to maintain aggregate
29 payment levels to hospitals for inpatient and outpatient services
30 covered by medicaid, including fee-for-service and managed care, at
31 least at the levels the state paid for those services on July 1,
32 (~~2009~~) 2015, as adjusted for current enrollment and utilization(~~(,~~
33 ~~but without regard to payment increases resulting from chapter 30,~~
34 ~~Laws of 2010 1st sp. sess)); and~~

35 (f) For each of the two biennia starting with fiscal year 2016 to
36 generate:

37 (i) Four million dollars for new integrated evidence-based
38 psychiatry residency program slots that did not receive state funding
39 prior to 2016 at the integrated psychiatry residency program at the
40 University of Washington; and

1 (ii) Eight million two hundred thousand dollars for new family
2 medicine residency program slots that did not receive state funding
3 prior to 2016, as directed through the family medicine residency
4 network at the University of Washington, for slots where residents
5 are employed by hospitals.

6 **Sec. 2.** RCW 74.60.020 and 2013 2nd sp.s. c 17 s 3 are each
7 amended to read as follows:

8 (1) A dedicated fund is hereby established within the state
9 treasury to be known as the hospital safety net assessment fund. The
10 purpose and use of the fund shall be to receive and disburse funds,
11 together with accrued interest, in accordance with this chapter.
12 Moneys in the fund, including interest earned, shall not be used or
13 disbursed for any purposes other than those specified in this
14 chapter. Any amounts expended from the fund that are later recouped
15 by the authority on audit or otherwise shall be returned to the fund.

16 (a) Any unexpended balance in the fund at the end of a fiscal
17 ~~((biennium))~~ year shall carry over into the following ~~((biennium))~~
18 fiscal year or that fiscal year and the following fiscal year and
19 shall be applied to reduce the amount of the assessment under RCW
20 74.60.050(1)(c).

21 (b) Any amounts remaining in the fund after July 1, 2019, shall
22 be refunded to hospitals, pro rata according to the amount paid by
23 the hospital since July 1, 2013, subject to the limitations of
24 federal law.

25 (2) All assessments, interest, and penalties collected by the
26 authority under RCW 74.60.030 and 74.60.050 shall be deposited into
27 the fund.

28 (3) Disbursements from the fund are conditioned upon
29 appropriation and the continued availability of other funds
30 sufficient to maintain aggregate payment levels to hospitals for
31 inpatient and outpatient services covered by medicaid, including fee-
32 for-service and managed care, at least at the levels the state paid
33 for those services on July 1, ~~((2009))~~ 2015, as adjusted for current
34 enrollment and utilization~~((, but without regard to payment increases~~
35 ~~resulting from chapter 30, Laws of 2010 1st sp. sess))~~.

36 (4) Disbursements from the fund may be made only:

37 (a) To make payments to hospitals and managed care plans as
38 specified in this chapter;

1 (b) To refund erroneous or excessive payments made by hospitals
2 pursuant to this chapter;

3 (c) For one million dollars per biennium for payment of
4 administrative expenses incurred by the authority in performing the
5 activities authorized by this chapter;

6 (d) For ~~((one hundred ninety-nine million eight hundred
7 thousand))~~ two hundred eighty-three million dollars ~~((in the
8 2013-2015))~~ per biennium, ~~((phasing down to zero by the end of the
9 2017-2019 biennium))~~ to be used in lieu of state general fund
10 payments for medicaid hospital services, provided that if the full
11 amount of the payments required under RCW 74.60.120 and 74.60.130
12 cannot be distributed in a given fiscal year, this amount must be
13 reduced proportionately;

14 (e) To repay the federal government for any excess payments made
15 to hospitals from the fund if the assessments or payment increases
16 set forth in this chapter are deemed out of compliance with federal
17 statutes and regulations in a final determination by a court of
18 competent jurisdiction with all appeals exhausted. In such a case,
19 the authority may require hospitals receiving excess payments to
20 refund the payments in question to the fund. The state in turn shall
21 return funds to the federal government in the same proportion as the
22 original financing. If a hospital is unable to refund payments, the
23 state shall develop either a payment plan, or deduct moneys from
24 future medicaid payments, or both;

25 (f) Beginning in state fiscal year 2015, to pay an amount
26 sufficient, when combined with the maximum available amount of
27 federal funds necessary to provide a one percent increase in medicaid
28 hospital inpatient rates to hospitals eligible for quality
29 improvement incentives under RCW 74.09.611; and

30 (g) For each state fiscal year 2016 through 2019 to generate:

31 (i) Two million dollars for new integrated evidence-based
32 psychiatry residency program slots that did not receive state funding
33 prior to 2016 at the integrated psychiatry residency program at the
34 University of Washington; and

35 (ii) Four million one hundred thousand dollars for new family
36 medicine residency program slots that did not receive state funding
37 prior to 2016, as directed through the family medicine residency
38 network at the University of Washington, for slots where residents
39 are employed by hospitals.

1 **Sec. 3.** RCW 74.60.030 and 2014 c 143 s 1 are each amended to
2 read as follows:

3 (1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1),
4 and so long as the conditions in RCW 74.60.150(2) have not occurred,
5 an assessment is imposed as set forth in this subsection(~~(, effective~~
6 ~~October 1, 2013))~~). (~~Initial assessment notices must be sent to each~~
7 ~~hospital not earlier than thirty days after satisfaction of the~~
8 ~~conditions in RCW 74.60.150(1). Payment is due not sooner than thirty~~
9 ~~days thereafter. Except for the initial~~) Assessment(~~(,)~~) notices
10 must be sent on or about thirty days prior to the end of each quarter
11 and payment is due thirty days thereafter.

12 (b) Effective (~~October 1, 2013~~) July 1, 2015, and except as
13 provided in RCW 74.60.050:

14 (i) (~~For fiscal year 2014, an annual assessment for amounts~~
15 ~~determined as described in (b)(ii) through (iv) of this subsection is~~
16 ~~imposed for the time period of October 1, 2013, through June 30,~~
17 ~~2014. The initial assessment notice must cover amounts due from~~
18 ~~October 1, 2013, through either: (A) The end of the calendar quarter~~
19 ~~prior to the satisfaction of the conditions in RCW 74.60.150(1) if~~
20 ~~federal approval is received more than forty five days prior to the~~
21 ~~end of a quarter; or (B) the end of the calendar quarter after the~~
22 ~~satisfaction of the conditions in RCW 74.60.150(1) if federal~~
23 ~~approval is received within forty five days of the end of a quarter.~~
24 ~~For subsequent assessments during fiscal year 2014, the authority~~
25 ~~shall calculate the amount due annually and shall issue assessments~~
26 ~~for the appropriate proportion of the annual amount due from each~~
27 ~~hospital;~~

28 ~~(ii) After the assessments described in (b)(i) of this~~
29 ~~subsection,~~) Each prospective payment system hospital, except
30 psychiatric and rehabilitation hospitals, shall pay a quarterly
31 assessment. Each quarterly assessment shall be no more than one
32 quarter of three hundred (~~(forty four)~~) fifty dollars for each annual
33 nonmedicare hospital inpatient day, up to a maximum of fifty-four
34 thousand days per year. For each nonmedicare hospital inpatient day
35 in excess of fifty-four thousand days, each prospective payment
36 system hospital shall pay an assessment of one quarter of seven
37 dollars for each such day;

38 (~~(iii) After the assessments described in (b)(i) of this~~
39 ~~subsection,~~) (ii) Each critical access hospital shall pay a

1 quarterly assessment of one quarter of ten dollars for each annual
2 nonmedicare hospital inpatient day;

3 ~~((iv) After the assessments described in (b)(i) of this~~
4 ~~subsection,))~~ (iii) Each psychiatric hospital shall pay a quarterly
5 assessment of no more than one quarter of ((sixty-seven)) seventy
6 dollars for each annual nonmedicare hospital inpatient day; and

7 ~~((v) After the assessments described in (b)(i) of this~~
8 ~~subsection,))~~ (iv) Each rehabilitation hospital shall pay a quarterly
9 assessment of no more than one quarter of ((sixty-seven)) seventy
10 dollars for each annual nonmedicare hospital inpatient day.

11 (2) The authority shall determine each hospital's annual
12 nonmedicare hospital inpatient days by summing the total reported
13 nonmedicare hospital inpatient days for each hospital that is not
14 exempt from the assessment under RCW 74.60.040(~~, taken~~). The
15 authority shall obtain inpatient data from the hospital's 2552 cost
16 report data file or successor data file available through the centers
17 for medicare and medicaid services, as of a date to be determined by
18 the authority. For state fiscal year ~~((2014))~~ 2016, the authority
19 shall use cost report data for hospitals' fiscal years ending in
20 ~~((2010))~~ 2012. For subsequent years, the hospitals' next succeeding
21 fiscal year cost report data must be used.

22 (a) With the exception of a prospective payment system hospital
23 commencing operations after January 1, 2009, for any hospital without
24 a cost report for the relevant fiscal year, the authority shall work
25 with the affected hospital to identify appropriate supplemental
26 information that may be used to determine annual nonmedicare hospital
27 inpatient days.

28 (b) A prospective payment system hospital commencing operations
29 after January 1, 2009, must be assessed in accordance with this
30 section after becoming an eligible new prospective payment system
31 hospital as defined in RCW 74.60.010.

32 **Sec. 4.** RCW 74.60.050 and 2013 2nd sp.s. c 17 s 5 are each
33 amended to read as follows:

34 (1) The authority, in cooperation with the office of financial
35 management, shall develop rules for determining the amount to be
36 assessed to individual hospitals, notifying individual hospitals of
37 the assessed amount, and collecting the amounts due. Such rule making
38 shall specifically include provision for:

1 (a) Transmittal of notices of assessment by the authority to each
2 hospital informing the hospital of its nonmedicare hospital inpatient
3 days and the assessment amount due and payable;

4 (b) Interest on delinquent assessments at the rate specified in
5 RCW 82.32.050; and

6 (c) Adjustment of the assessment amounts in accordance with
7 subsection((s)) (2) (~~and (3)~~) of this section.

8 (2) For state fiscal year ((2015)) 2016 and each subsequent state
9 fiscal year, the assessment amounts established under RCW 74.60.030
10 must be adjusted as follows:

11 (a) If sufficient other funds, including federal funds, are
12 available to make the payments required under this chapter and fund
13 the state portion of the quality incentive payments under RCW
14 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment
15 under RCW 74.60.030, the authority shall reduce the amount of the
16 assessment to the minimum levels necessary to support those payments;

17 (b) If the total amount of inpatient or outpatient supplemental
18 payments under RCW 74.60.120 is in excess of the upper payment limit
19 and the entire excess amount cannot be disbursed by additional
20 payments to managed care organizations under RCW 74.60.130, the
21 authority shall proportionately reduce future assessments on
22 prospective payment hospitals to the level necessary to generate
23 additional payments to hospitals that are consistent with the upper
24 payment limit plus the maximum permissible amount of additional
25 payments to managed care organizations under RCW 74.60.130;

26 (c) If the amount of payments to managed care organizations under
27 RCW 74.60.130 cannot be distributed because of failure to meet
28 federal actuarial soundness or utilization requirements or other
29 federal requirements, the authority shall apply the amount that
30 cannot be distributed to reduce future assessments to the level
31 necessary to generate additional payments to managed care
32 organizations that are consistent with federal actuarial soundness or
33 utilization requirements or other federal requirements;

34 (d) If required in order to obtain federal matching funds, the
35 maximum number of nonmedicare inpatient days at the higher rate
36 provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to
37 comply with federal requirements;

38 (e) If the number of nonmedicare inpatient days applied to the
39 rates provided in RCW 74.60.030 will not produce sufficient funds to
40 support the payments required under this chapter and the state

1 portion of the quality incentive payments under RCW 74.09.611 and
2 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may
3 be increased proportionately by category of hospital to amounts no
4 greater than necessary in order to produce the required level of
5 funds needed to make the payments specified in this chapter and the
6 state portion of the quality incentive payments under RCW 74.09.611
7 and 74.60.020(4)(f); and

8 (f) Any actual or estimated surplus remaining in the fund at the
9 end of the fiscal year must be applied to reduce the assessment
10 amount for the subsequent fiscal year or that fiscal year and the
11 following fiscal years prior to and including fiscal year 2019.

12 ~~(3) ((For each fiscal year after June 30, 2015, the assessment~~
13 ~~amounts established under RCW 74.60.030 must be adjusted as follows:~~

14 ~~(a) In order to support the payments required in this chapter,~~
15 ~~the assessment amounts must be reduced in approximately equal yearly~~
16 ~~increments each fiscal year by category of hospital until the~~
17 ~~assessment amount is zero by July 1, 2019;~~

18 ~~(b) If sufficient other funds, including federal funds, are~~
19 ~~available to make the payments required under this chapter and fund~~
20 ~~the state portion of the quality incentive payments under RCW~~
21 ~~74.09.611 and 74.60.020(4)(f) without utilizing the full assessment~~
22 ~~under RCW 74.60.030, the authority shall reduce the amount of the~~
23 ~~assessment to the minimum levels necessary to support those payments;~~

24 ~~(c) If in any fiscal year the total amount of inpatient or~~
25 ~~outpatient supplemental payments under RCW 74.60.120 is in excess of~~
26 ~~the upper payment limit and the entire excess amount cannot be~~
27 ~~disbursed by additional payments to managed care organizations under~~
28 ~~RCW 74.60.130, the authority shall proportionately reduce future~~
29 ~~assessments on prospective payment hospitals to the level necessary~~
30 ~~to generate additional payments to hospitals that are consistent with~~
31 ~~the upper payment limit plus the maximum permissible amount of~~
32 ~~additional payments to managed care organizations under RCW~~
33 ~~74.60.130;~~

34 ~~(d) If the amount of payments to managed care organizations under~~
35 ~~RCW 74.60.130 cannot be distributed because of failure to meet~~
36 ~~federal actuarial soundness or utilization requirements or other~~
37 ~~federal requirements, the authority shall apply the amount that~~
38 ~~cannot be distributed to reduce future assessments to the level~~
39 ~~necessary to generate additional payments to managed care~~

1 ~~organizations that are consistent with federal actuarial soundness or~~
2 ~~utilization requirements or other federal requirements;~~

3 ~~(e) If required in order to obtain federal matching funds, the~~
4 ~~maximum number of nonmedicare inpatient days at the higher rate~~
5 ~~provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to~~
6 ~~comply with federal requirements;~~

7 ~~(f) If the number of nonmedicare inpatient days applied to the~~
8 ~~rates provided in RCW 74.60.030 will not produce sufficient funds to~~
9 ~~support the payments required under this chapter and the state~~
10 ~~portion of the quality incentive payments under RCW 74.09.611 and~~
11 ~~74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may~~
12 ~~be increased proportionately by category of hospital to amounts no~~
13 ~~greater than necessary in order to produce the required level of~~
14 ~~funds needed to make the payments specified in this chapter and the~~
15 ~~state portion of the quality incentive payments under RCW 74.09.611~~
16 ~~and 74.60.020(4)(f); and~~

17 ~~(g) Any actual or estimated surplus remaining in the fund at the~~
18 ~~end of the fiscal year must be applied to reduce the assessment~~
19 ~~amount for the subsequent fiscal year.~~

20 ~~(4))~~(a) Any adjustment to the assessment amounts pursuant to
21 this section, and the data supporting such adjustment, including, but
22 not limited to, relevant data listed in (b) of this subsection, must
23 be submitted to the Washington state hospital association for review
24 and comment at least sixty calendar days prior to implementation of
25 such adjusted assessment amounts. Any review and comment provided by
26 the Washington state hospital association does not limit the ability
27 of the Washington state hospital association or its members to
28 challenge an adjustment or other action by the authority that is not
29 made in accordance with this chapter.

30 (b) The authority shall provide the following data to the
31 Washington state hospital association sixty days before implementing
32 any revised assessment levels, detailed by fiscal year, beginning
33 with fiscal year 2011 and extending to the most recent fiscal year,
34 except in connection with the initial assessment under this chapter:

35 (i) The fund balance;

36 (ii) The amount of assessment paid by each hospital;

37 (iii) The state share, federal share, and total annual medicaid
38 fee-for-service payments for inpatient hospital services made to each
39 hospital under RCW 74.60.120, and the data used to calculate the
40 payments to individual hospitals under that section;

1 (iv) The state share, federal share, and total annual medicaid
2 fee-for-service payments for outpatient hospital services made to
3 each hospital under RCW 74.60.120, and the data used to calculate
4 annual payments to individual hospitals under that section;

5 (v) The annual state share, federal share, and total payments
6 made to each hospital under each of the following programs: Grants to
7 certified public expenditure hospitals under RCW 74.60.090, for
8 critical access hospital payments under RCW 74.60.100; and
9 disproportionate share programs under RCW 74.60.110;

10 (vi) The data used to calculate annual payments to individual
11 hospitals under (b)(v) of this subsection; and

12 (vii) The amount of payments made to managed care plans under RCW
13 74.60.130, including the amount representing additional premium tax,
14 and the data used to calculate those payments.

15 (c) On a monthly basis, the authority shall provide the
16 Washington state hospital association the amount of payments made to
17 managed care plans under RCW 74.60.130, including the amount
18 representing additional premium tax, and the data used to calculate
19 those payments.

20 **Sec. 5.** RCW 74.60.090 and 2013 2nd sp.s. c 17 s 8 are each
21 amended to read as follows:

22 (1) In each fiscal year commencing upon satisfaction of the
23 applicable conditions in RCW 74.60.150(1), funds must be disbursed
24 from the fund and the authority shall make grants to certified public
25 expenditure hospitals, which shall not be considered payments for
26 hospital services, as follows:

27 (a) University of Washington medical center: (~~Three million~~
28 ~~three hundred thousand dollars per state fiscal year in fiscal years~~
29 ~~2014 and 2015, and then reduced in approximately equal increments per~~
30 ~~fiscal year until the grant amount is zero by July 1,)~~ Ten million
31 five hundred fifty-five thousand dollars in each state fiscal year
32 2016 through 2019 paid as follows, except if the full amount of the
33 payments required under RCW 74.60.120 and 74.60.130 cannot be
34 distributed in a given fiscal year, the amounts in this subsection
35 (ii) and (iii) must be reduced proportionately:

36 (i) Four million four hundred fifty-five thousand dollars;

37 (ii) Two million dollars to new integrated, evidence-based
38 psychiatry residency program slots that did not receive state funding

1 prior to 2016, at the integrated psychiatry residency program at the
2 University of Washington; and

3 (iii) Four million one hundred thousand dollars to new family
4 medicine residency program slots that did not receive state funding
5 prior to 2016, as directed through the family medicine residency
6 network at the University of Washington, for slots where residents
7 are employed by hospitals;

8 (b) Harborview medical center: (~~Seven million six hundred~~
9 ~~thousand dollars per state fiscal year in fiscal years 2014 and 2015,~~
10 ~~and then reduced in approximately equal increments per fiscal year~~
11 ~~until the grant amount is zero by July 1,~~) Ten million two hundred
12 sixty thousand dollars in each state fiscal year 2016 through 2019;

13 (c) All other certified public expenditure hospitals: (~~Four~~
14 ~~million seven hundred thousand dollars per state fiscal year in~~
15 ~~fiscal years 2014 and 2015, and then reduced in approximately equal~~
16 ~~increments per fiscal year until the grant amount is zero by July~~
17 ~~1,~~) Six million three hundred forty-five thousand dollars in each
18 state fiscal year 2016 through 2019. The amount of payments to
19 individual hospitals under this subsection must be determined using a
20 methodology that provides each hospital with a proportional
21 allocation of the group's total amount of medicaid and state
22 children's health insurance program payments determined from claims
23 and encounter data using the same general methodology set forth in
24 RCW 74.60.120 (3) and (4).

25 (2) Payments must be made quarterly, before the end of each
26 quarter, taking the total disbursement amount and dividing by four to
27 calculate the quarterly amount. (~~The initial payment, which must~~
28 ~~include all amounts due from and after July 1, 2013, to the date of~~
29 ~~the initial payment, must be made within thirty days after~~
30 ~~satisfaction of the conditions in RCW 74.60.150(1).~~) The authority
31 shall provide a quarterly report of such payments to the Washington
32 state hospital association.

33 **Sec. 6.** RCW 74.60.100 and 2013 2nd sp.s. c 17 s 9 are each
34 amended to read as follows:

35 In each fiscal year commencing upon satisfaction of the
36 conditions in RCW 74.60.150(1), the authority shall make access
37 payments to critical access hospitals that do not qualify for or
38 receive a small rural disproportionate share hospital payment in a
39 given fiscal year in the total amount of (~~five hundred twenty~~)

1 seven hundred two thousand dollars from the fund and to critical
2 access hospitals that receive disproportionate share payments in the
3 total amount of one million three hundred thirty-six thousand
4 dollars. The amount of payments to individual hospitals under this
5 section must be determined using a methodology that provides each
6 hospital with a proportional allocation of the group's total amount
7 of medicaid and state children's health insurance program payments
8 determined from claims and encounter data using the same general
9 methodology set forth in RCW 74.60.120 (3) and (4). Payments must be
10 made after the authority determines a hospital's payments under RCW
11 74.60.110. These payments shall be in addition to any other amount
12 payable with respect to services provided by critical access
13 hospitals and shall not reduce any other payments to critical access
14 hospitals. The authority shall provide a report of such payments to
15 the Washington state hospital association within thirty days after
16 payments are made.

17 **Sec. 7.** RCW 74.60.120 and 2014 c 143 s 2 are each amended to
18 read as follows:

19 (1) ~~((Beginning))~~ In each state fiscal year ~~((2014))~~, commencing
20 ~~((thirty days after))~~ upon satisfaction of the applicable conditions
21 in RCW 74.60.150(1), ~~((and for the period of state fiscal years 2014~~
22 ~~through 2019,))~~ the authority shall make supplemental payments
23 directly to Washington hospitals, separately for inpatient and
24 outpatient fee-for-service medicaid services, as follows:

25 (a) For inpatient fee-for-service payments for prospective
26 payment hospitals other than psychiatric or rehabilitation hospitals,
27 twenty-nine million ~~((two hundred twenty five thousand))~~ one hundred
28 sixty-two thousand five hundred dollars per state fiscal year ~~((in~~
29 ~~fiscal years 2014 and 2015, and then amounts reduced in equal~~
30 ~~increments per fiscal year until the supplemental payment amount is~~
31 ~~zero by July 1, 2019, from the fund,))~~ plus federal matching funds;

32 (b) For outpatient fee-for-service payments for prospective
33 payment hospitals other than psychiatric or rehabilitation hospitals,
34 thirty million dollars per state fiscal year ~~((in fiscal years 2014~~
35 ~~and 2015, and then amounts reduced in equal increments per fiscal~~
36 ~~year until the supplemental payment amount is zero by July 1, 2019,~~
37 ~~from the fund,))~~ plus federal matching funds;

38 (c) For inpatient fee-for-service payments for psychiatric
39 hospitals, ~~((six hundred twenty five thousand))~~ eight hundred

1 ~~seventy-five thousand~~ dollars per state fiscal year (~~((in fiscal years~~
2 ~~2014 and 2015, and then amounts reduced in equal increments per~~
3 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
4 ~~2019, from the fund,))~~ plus federal matching funds;

5 (d) For inpatient fee-for-service payments for rehabilitation
6 hospitals, (~~(one hundred fifty thousand))~~ two hundred twenty-five
7 thousand dollars per state fiscal year (~~((in fiscal years 2014 and~~
8 ~~2015, and then amounts reduced in equal increments per fiscal year~~
9 ~~until the supplemental payment amount is zero by July 1, 2019, from~~
10 ~~the fund,))~~ plus federal matching funds;

11 (e) For inpatient fee-for-service payments for border hospitals,
12 two hundred fifty thousand dollars per state fiscal year (~~((in fiscal~~
13 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~
14 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
15 ~~2019, from the fund,))~~ plus federal matching funds; and

16 (f) For outpatient fee-for-service payments for border hospitals,
17 two hundred fifty thousand dollars per state fiscal year (~~((in fiscal~~
18 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~
19 ~~fiscal year until the supplemental payment amount is zero by July 1,~~
20 ~~2019, from the fund,))~~ plus federal matching funds.

21 (2) If the amount of inpatient or outpatient payments under
22 subsection (1) of this section, when combined with federal matching
23 funds, exceeds the upper payment limit, payments to each category of
24 hospital must be reduced proportionately to a level where the total
25 payment amount is consistent with the upper payment limit. Funds
26 under this chapter unable to be paid to hospitals under this section
27 because of the upper payment limit must be paid to managed care
28 organizations under RCW 74.60.130, subject to the limitations in this
29 chapter.

30 (3) The amount of such fee-for-service inpatient payments to
31 individual hospitals within each of the categories identified in
32 subsection (1)(a), (c), (d), and (e) of this section must be
33 determined by:

34 (a) Applying the medicaid fee-for-service rates in effect on July
35 1, 2009, without regard to the increases required by chapter 30, Laws
36 of 2010 1st sp. sess. to each hospital's inpatient fee-for-services
37 claims and medicaid managed care encounter data for the base year;

38 (b) Applying the medicaid fee-for-service rates in effect on July
39 1, 2009, without regard to the increases required by chapter 30, Laws
40 of 2010 1st sp. sess. to all hospitals' inpatient fee-for-services

1 claims and medicaid managed care encounter data for the base year;
2 and

3 (c) Using the amounts calculated under (a) and (b) of this
4 subsection to determine an individual hospital's percentage of the
5 total amount to be distributed to each category of hospital.

6 (4) The amount of such fee-for-service outpatient payments to
7 individual hospitals within each of the categories identified in
8 subsection (1)(b) and (f) of this section must be determined by:

9 (a) Applying the medicaid fee-for-service rates in effect on July
10 1, 2009, without regard to the increases required by chapter 30, Laws
11 of 2010 1st sp. sess. to each hospital's outpatient fee-for-services
12 claims and medicaid managed care encounter data for the base year;

13 (b) Applying the medicaid fee-for-service rates in effect on July
14 1, 2009, without regard to the increases required by chapter 30, Laws
15 of 2010 1st sp. sess. to all hospitals' outpatient fee-for-services
16 claims and medicaid managed care encounter data for the base year;
17 and

18 (c) Using the amounts calculated under (a) and (b) of this
19 subsection to determine an individual hospital's percentage of the
20 total amount to be distributed to each category of hospital.

21 (5) (~~Thirty days before the initial payments and~~) Sixty days
22 before the first payment in each subsequent fiscal year, the
23 authority shall provide each hospital and the Washington state
24 hospital association with an explanation of how the amounts due to
25 each hospital under this section were calculated.

26 (6) Payments must be made in quarterly installments on or about
27 the last day of every quarter. (~~The initial payment must be made
28 within thirty days after satisfaction of the conditions in RCW
29 74.60.150(1) and must include all amounts due from July 1, 2013, to
30 either: (a) The end of the calendar quarter prior to when the
31 conditions in RCW 70.60.150(1) [74.60.150(1)] are satisfied if
32 approval is received more than forty five days prior to the end of a
33 quarter; or (b) the end of the calendar quarter after the
34 satisfaction of the conditions in RCW 74.60.150(1) if approval is
35 received within forty five days of the end of a quarter.~~)

36 (7) A prospective payment system hospital commencing operations
37 after January 1, 2009, is eligible to receive payments in accordance
38 with this section after becoming an eligible new prospective payment
39 system hospital as defined in RCW 74.60.010.

1 (8) Payments under this section are supplemental to all other
2 payments and do not reduce any other payments to hospitals.

3 **Sec. 8.** RCW 74.60.130 and 2014 c 143 s 3 are each amended to
4 read as follows:

5 (1) For state fiscal year (~~(2014)~~) 2016 and for each subsequent
6 fiscal year, commencing within thirty days after satisfaction of the
7 conditions in RCW 74.60.150(1) and subsection (~~((+6))~~) (5) of this
8 section, (~~(and for the period of state fiscal years 2014 through~~
9 ~~2019,)~~) the authority shall increase capitation payments in a manner
10 consistent with federal contracting requirements to managed care
11 organizations by an amount at least equal to the amount available
12 from the fund after deducting disbursements authorized by RCW
13 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080
14 through 74.60.120. The capitation payment under this subsection must
15 be no less than (~~(one hundred fifty-three)~~) ninety-six million (~~(one~~
16 ~~hundred thirty-one thousand six hundred)~~) dollars per state fiscal
17 year (~~(in fiscal years 2014 and 2015, and then the increased~~
18 ~~capitation payment amounts are reduced in equal increments per fiscal~~
19 ~~year until the increased capitation payment amount is zero by July 1,~~
20 ~~2019,)~~) plus the maximum available amount of federal matching funds.
21 The initial payment following satisfaction of the conditions in RCW
22 74.60.150(1) must include all amounts due from July 1, (~~(2013)~~) 2015,
23 to the end of the calendar month during which the conditions in RCW
24 74.60.150(1) are satisfied. Subsequent payments shall be made
25 monthly.

26 (2) (~~(In fiscal years 2015, 2016, and 2017, the authority shall~~
27 ~~use any additional federal matching funds for the increased managed~~
28 ~~care capitation payments under subsection (1) of this section~~
29 ~~available from medicaid expansion under the federal patient~~
30 ~~protection and affordable care act to substitute for assessment funds~~
31 ~~which otherwise would have been used to pay managed care plans under~~
32 ~~this section.~~

33 ~~(3))~~ Payments to individual managed care organizations shall be
34 determined by the authority based on each organization's or network's
35 enrollment relative to the anticipated total enrollment in each
36 program for the fiscal year in question, the anticipated utilization
37 of hospital services by an organization's or network's medicaid
38 enrollees, and such other factors as are reasonable and appropriate
39 to ensure that purposes of this chapter are met.

1 (~~(4)~~) (3) If the federal government determines that total
2 payments to managed care organizations under this section exceed what
3 is permitted under applicable medicaid laws and regulations, payments
4 must be reduced to levels that meet such requirements, and the
5 balance remaining must be applied as provided in RCW 74.60.050.
6 Further, in the event a managed care organization is legally
7 obligated to repay amounts distributed to hospitals under this
8 section to the state or federal government, a managed care
9 organization may recoup the amount it is obligated to repay under the
10 medicaid program from individual hospitals by not more than the
11 amount of overpayment each hospital received from that managed care
12 organization.

13 (~~(5)~~) (4) Payments under this section do not reduce the amounts
14 that otherwise would be paid to managed care organizations: PROVIDED,
15 That such payments are consistent with actuarial soundness
16 certification and enrollment.

17 (~~(6)~~) (5) Before making such payments, the authority shall
18 require medicaid managed care organizations to comply with the
19 following requirements:

20 (a) All payments to managed care organizations under this chapter
21 must be expended for hospital services provided by Washington
22 hospitals, which for purposes of this section includes psychiatric
23 and rehabilitation hospitals, in a manner consistent with the
24 purposes and provisions of this chapter, and must be equal to all
25 increased capitation payments under this section received by the
26 organization or network, consistent with actuarial certification and
27 enrollment, less an allowance for any estimated premium taxes the
28 organization is required to pay under Title 48 RCW associated with
29 the payments under this chapter;

30 (b) Managed care organizations shall expend the increased
31 capitation payments under this section in a manner consistent with
32 the purposes of this chapter, with the initial expenditures to
33 hospitals to be made within thirty days of receipt of payment from
34 the authority. Subsequent expenditures by the managed care plans are
35 to be made before the end of the quarter in which funds are received
36 from the authority;

37 (c) Providing that any delegation or attempted delegation of an
38 organization's or network's obligations under agreements with the
39 authority do not relieve the organization or network of its
40 obligations under this section and related contract provisions.

1 ~~((7))~~ (6) No hospital or managed care organizations may use the
2 payments under this section to gain advantage in negotiations.

3 ~~((8))~~ (7) No hospital has a claim or cause of action against a
4 managed care organization for monetary compensation based on the
5 amount of payments under subsection ~~((6))~~ (5) of this section.

6 ~~((9))~~ (8) If funds cannot be used to pay for services in
7 accordance with this chapter the managed care organization or network
8 must return the funds to the authority which shall return them to the
9 hospital safety net assessment fund.

10 **Sec. 9.** RCW 74.60.150 and 2013 2nd sp.s. c 17 s 15 are each
11 amended to read as follows:

12 (1) The assessment, collection, and disbursement of funds under
13 this chapter shall be conditional upon:

14 (a) Final approval by the centers for medicare and medicaid
15 services of any state plan amendments or waiver requests that are
16 necessary in order to implement the applicable sections of this
17 chapter including, if necessary, waiver of the broad-based or
18 uniformity requirements as specified under section 1903(w)(3)(E) of
19 the federal social security act and 42 C.F.R. 433.68(e);

20 (b) To the extent necessary, amendment of contracts between the
21 authority and managed care organizations in order to implement this
22 chapter; and

23 (c) Certification by the office of financial management that
24 appropriations have been adopted that fully support the rates
25 established in this chapter for the upcoming fiscal year.

26 (2) This chapter does not take effect or ceases to be imposed,
27 and any moneys remaining in the fund shall be refunded to hospitals
28 in proportion to the amounts paid by such hospitals, if and to the
29 extent that any of the following conditions occur:

30 (a) The federal department of health and human services and a
31 court of competent jurisdiction makes a final determination, with all
32 appeals exhausted, that any element of this chapter, other than RCW
33 74.60.100, cannot be validly implemented;

34 (b) Funds generated by the assessment for payments to prospective
35 payment hospitals or managed care organizations are determined to be
36 not eligible for federal match;

37 (c) Other funding sufficient to maintain aggregate payment levels
38 to hospitals for inpatient and outpatient services covered by
39 medicaid, including fee-for-service and managed care, at least at the

1 levels the state paid for those services on July 1, ((2009)) 2015, as
2 adjusted for current enrollment and utilization(~~(, but without regard~~
3 ~~to payment increases resulting from chapter 30, Laws of 2010 1st sp.~~
4 ~~sess.,)~~) is not appropriated or available;

5 (d) Payments required by this chapter are reduced, except as
6 specifically authorized in this chapter, or payments are not made in
7 substantial compliance with the time frames set forth in this
8 chapter; or

9 (e) The fund is used as a substitute for or to supplant other
10 funds, except as authorized by RCW 74.60.020.

11 **Sec. 10.** RCW 74.60.160 and 2013 2nd sp.s. c 17 s 17 are each
12 amended to read as follows:

13 (1) The legislature intends to provide the hospitals with an
14 opportunity to contract with the authority each fiscal biennium to
15 protect the hospitals from future legislative action during the
16 biennium that could result in hospitals receiving less from
17 supplemental payments, increased managed care payments,
18 disproportionate share hospital payments, or access payments than the
19 hospitals expected to receive in return for the assessment based on
20 the biennial appropriations and assessment legislation.

21 (2) Each odd-numbered year after enactment of the biennial
22 omnibus operating appropriations act, the authority shall offer to
23 enter into a contract or to extend an existing contract for the
24 period of the fiscal biennium beginning July 1st with a hospital that
25 is required to pay the assessment under this chapter. The contract
26 must include the following terms:

27 (a) The authority must agree not to do any of the following:

28 (i) Increase the assessment from the level set by the authority
29 pursuant to this chapter on the first day of the contract period for
30 reasons other than those allowed under RCW 74.60.050(~~(+3)~~) (2)(e);

31 (ii) Reduce aggregate payment levels to hospitals for inpatient
32 and outpatient services covered by medicaid, including fee-for-
33 service and managed care, (~~allowing for variations due to budget-~~
34 ~~neutral-rebasing-and~~) adjusting for changes in enrollment and
35 utilization, from the levels the state paid for those services on the
36 first day of the contract period;

37 (iii) For critical access hospitals only, reduce the levels of
38 disproportionate share hospital payments under RCW 74.60.110 or
39 access payments under RCW 74.60.100 for all critical access hospitals

1 below the levels specified in those sections on the first day of the
2 contract period;

3 (iv) For prospective payment system, psychiatric, and
4 rehabilitation hospitals only, reduce the levels of supplemental
5 payments under RCW 74.60.120 for all prospective payment system
6 hospitals below the levels specified in that section on the first day
7 of the contract period unless the supplemental payments are reduced
8 under RCW 74.60.120(2);

9 (v) For prospective payment system, psychiatric, and
10 rehabilitation hospitals only, reduce the increased capitation
11 payments to managed care organizations under RCW 74.60.130 below the
12 levels specified in that section on the first day of the contract
13 period unless the managed care payments are reduced under RCW
14 74.60.130(~~((4))~~) (3); or

15 (vi) Except as specified in this chapter, use assessment revenues
16 for any other purpose than to secure federal medicaid matching funds
17 to support payments to hospitals for medicaid services; and

18 (b) As long as payment levels are maintained as required under
19 this chapter, the hospital must agree not to challenge the
20 authority's reduction of hospital reimbursement rates to July 1,
21 2009, levels, which results from the elimination of assessment
22 supported rate restorations and increases, under 42 U.S.C. Sec.
23 1396a(a)(30)(a) either through administrative appeals or in court
24 during the period of the contract.

25 (3) If a court finds that the authority has breached an agreement
26 with a hospital under subsection (2)(a) of this section, the
27 authority:

28 (a) Must immediately refund any assessment payments made
29 subsequent to the breach by that hospital upon receipt; and

30 (b) May discontinue supplemental payments, increased managed care
31 payments, disproportionate share hospital payments, and access
32 payments made subsequent to the breach for the hospital that are
33 required under this chapter.

34 (4) The remedies provided in this section are not exclusive of
35 any other remedies and rights that may be available to the hospital
36 whether provided in this chapter or otherwise in law, equity, or
37 statute.

38 **Sec. 11.** RCW 74.60.901 and 2013 2nd sp.s. c 17 s 19 are each
39 amended to read as follows:

1 This chapter expires July 1, ((2017)) 2019.

2 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
3 preservation of the public peace, health, or safety, or support of
4 the state government and its existing public institutions, and takes
5 effect immediately.

 Passed by the House June 24, 2015.

 Passed by the Senate June 26, 2015.

 Approved by the Governor June 30, 2015.

 Filed in Office of Secretary of State June 30, 2015.

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